

1 H.503

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Crimes and criminal procedure; bail and recognizances

5 Statement of purpose of bill as introduced: This bill proposes to restrict
6 imposition of an appearance bond at the initial court appearance of a person
7 cited for a misdemeanor, to allow a court to release a probationer on bail or
8 conditions for an alleged violation of probation if bail or conditions would
9 reasonably ensure the probationer's appearance at future proceedings and
10 protect the public, and to assign interested parties the task of reporting to the
11 House and Senate Committees on Judiciary on options for facilitating pretrial
12 communication between the courts and defendants with a goal of reducing the
13 risk of nonappearance by defendants.

14 An act relating to bail

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 13 V.S.A. § 7551 is amended to read:

17 § 7551. APPEARANCE BONDS; GENERALLY

18 (a) A bond given by a person charged with a criminal offense or by a
19 witness in a criminal prosecution under section 6605 of this title, conditioned
20 for the appearance of the person or witness before the court in cases where the

1 offense is punishable by fine or imprisonment, and in appealed cases, shall be
2 taken to the ~~district or superior court~~ Criminal Division of the Superior Court
3 where the prosecution is pending, and shall remain binding upon parties until
4 discharged by the court or until sentencing. The person or witness shall appear
5 at all required court proceedings.

6 (b) No bond may be imposed at the initial appearance of a person charged
7 with a misdemeanor if the person was cited for the offense in accordance with
8 Rule 3 of the Vermont Rules of Criminal Procedure. This subsection shall not
9 be construed to restrict the court's ability to impose conditions on such persons
10 to reasonably ensure his or her appearance at future proceedings or to
11 reasonably protect the public in accordance with section 7554 of this title.

12 Sec. 2. 28 V.S.A. § 301 is amended to read:

13 § 301. SUMMONS OR ARREST OF PROBATIONER

14 * * *

15 (2) Arrest or citation of person on probation. Any correctional officer
16 may arrest a probationer without a warrant if, in the judgment of the
17 correctional officer, the probationer has violated a condition or conditions of
18 his or her probation other than a condition that the probationer pay restitution;
19 or may deputize any other law enforcement officer to arrest a probationer
20 without a warrant by giving him or her a written statement setting forth that the
21 probationer has, in the judgment of the correctional officer, violated a

1 condition or conditions of his or her probation other than a condition that the
2 probationer pay restitution. The written statement delivered with the person by
3 the arresting officer to the supervising officer of the correctional facility to
4 which the person is brought for detention shall be sufficient warrant for
5 detaining him or her. In lieu of arrest, a correctional officer may issue a
6 probationer a citation to appear for arraignment. In deciding whether to arrest
7 or issue a citation, an officer shall consider whether issuance of a citation will
8 reasonably ensure the probationer's appearance at future proceedings and
9 reasonably protect the public.

10 * * *

11 (4) Detention pending hearing for probationer. Pending arraignment for
12 any charge of violation, the probationer shall ~~continue to~~ be detained at a
13 correctional facility unless issued a citation by a correctional officer.
14 Thereafter, the court may release the probationer pursuant to 13 V.S.A. § 7554.
15 There shall be no right to bail or release, unless the person is on probation for a
16 nonviolent misdemeanor or nonviolent felony ~~and the probation violation did~~
17 ~~not constitute a new crime.~~

18 (5)(A) At arraignment, if the court finds that bail or conditions of release
19 will reasonably ensure the probationer's appearance at future proceedings and
20 conditions of release will reasonably protect the public, the court:

1 (i) shall release a probationer who is on probation for a nonviolent
2 misdemeanor or nonviolent felony pursuant to 13 V.S.A. § 7554; and

3 (ii) may release a probationer who is on probation for a violent
4 misdemeanor or violent felony pursuant to 13 V.S.A. § 7554.

5 (B) As used in this ~~subdivision~~ section:

6 ~~(A)~~(i) “Nonviolent felony” means a felony offense ~~which~~ that is
7 not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving
8 sexual exploitation of children in violation of 13 V.S.A. chapter 64.

9 ~~(B)~~(ii) “Nonviolent misdemeanor” means a misdemeanor offense
10 ~~which~~ that is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense
11 involving sexual exploitation of children in violation of 13 V.S.A. chapter 64
12 or 13 V.S.A. § 1030.

13 Sec. 3. PRETRIAL COMMUNICATIONS RECOMMENDATIONS

14 The Court Administrator, the Department of State’s Attorneys, the Office of
15 the Defender General, and the Vermont Chapter of the American Civil
16 Liberties Union shall work together and with other interested parties to
17 examine options for facilitating pretrial communication between the courts and
18 defendants with a goal of reducing the risk of nonappearance by defendants.
19 The parties jointly shall provide options and costs of such options to the Senate
20 and House Committees on Judiciary on or before October 15, 2017.

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on July 1, 2017.